

1 Christopher P. Norton, Esq. (*Pro Hac Vice*)  
2 MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, P.C.  
3 2029 Century Park East, Suite 3100  
4 Los Angeles, CA 90067  
5 Telephone: 310-586-3200  
6 Facsimile: 310-586-3202  
7 cpnorton@mintz.com

8 Vaughn A. Crawford, Esq.  
9 Nevada Bar No. 7665  
10 Dawn L. Davis, Esq.  
11 Nevada Bar No. 13329  
12 SNELL & WILMER L.L.P.  
13 3883 Howard Hughes Parkway, Suite 1100  
14 Las Vegas, NV 89169-5958  
15 Telephone: 702-784-5200  
16 Facsimile: 702-784-5252  
17 vcrawford@swlaw.com  
18 ddavis@swlaw.com

19 *Attorneys for Defendants*  
20 *Stryker Corporation and Stryker Sales Corporation*

21  
22  
**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

23 RYAN Q. CLARIDGE,

24 Plaintiff,

25 vs.

26 I-FLOW CORPORATION, a Delaware  
27 corporation; I-FLOW, LLC, a Delaware limited  
liability company; DJO LLC (f.k.a. DJ  
ORTHOPEDEICS, LLC), a Delaware limited  
liability company; DJO, INCORPORATED, aka  
DJO, INC., a Delaware corporation; STRYKER  
CORPORATION, a Michigan corporation; and  
STRYKER SALES CORPORATION, a  
Michigan corporation,

28 Defendants.

CASE NO.: 2:18-cv-01654-GMN-BNW

**DEFENDANTS' MOTION FOR  
EXPEDITED DECISION ON THE  
PAPERS OR EXPEDITED  
TELEPHONIC HEARING ON  
MOTIONS TO COMPEL FRCP 35  
EXAMINATIONS**

**[Defendants' Motion to Compel IMEs  
Filed Herewith, Dkt. No. 92]**

29  
30  
31  
32  
33  
34 Defendants Stryker Corporation, Stryker Sales Corporation, and I-Flow, LLC  
35 ("Defendants"), by and through their counsel of record, move the Court for an expedited decision  
36 on the papers, or in the alternative, an expedited telephonic hearing, on Defendants' motions to  
37 compel necessary FRCP 35 examinations filed concurrently herewith.

After a meet and confer with Plaintiff's counsel on January 31, 2020, both parties request that a decision be rendered (or, if needed, that a hearing be set) as soon as possible to expedite a resolution and keep all discovery efforts on track for completion by the March 8, 2020, initial expert witness disclosure deadline and the May 18, 2020, discovery cutoff.

**REQUEST FOR EXPEDITED DECISION ON THE PAPERS (OR TELEPHONIC  
HEARING, IF NECESSARY) ON DEFENDANTS' MOTION TO COMPEL FRCP 35  
EXAMINATIONS**

Throughout the course of discovery, Defendants have deposed nearly all of Plaintiff's past and current treatment providers. During the week of January 13, 2020, Defendants deposed one of Plaintiff's mental health providers, Barbara Key, Psy.D. and orthopedic specialist Milan Stevanovic, MD, one of many doctors who has seen Plaintiff for his mysterious and apparently ongoing "nerve injury."<sup>1</sup> Dr. Koe's testimony from the same week in January 2020 also raised questions concerning the etiology of Plaintiff's alleged injuries. Over the past month, it has become evident that Plaintiff intends to make significant damages claims against the Defendants for both his alleged ongoing mental health issues and the mysterious ongoing nerve injury—with the latter apparently preventing Plaintiff from working since 2018.

Given the testimony recently obtained from Plaintiff's medical care providers—as discussed in Defendant's motion to compel filed herewith—counsel for Defendants conferred with Colin King, Esq. and Joseph Schmitt, Esq. on January 31, 2020, and requested that Plaintiff submit to a neurological and psychological evaluations with suitably qualified and licensed physicians pursuant to FRCP 35. Although Plaintiff's counsel flatly denied Defendants' requests, Mr. King agreed that Defendants' forthcoming motion to compel the FRCP 35 examinations should be resolved on an emergency or expedited basis in order to keep discovery on track.

Given the foregoing, Defendants, on behalf of all the parties, request that the Court resolve or set a telephonic hearing on Defendants' motions to compel the FRCP 35 examinations as soon as possible, as any hearing set in the normal course would not allow sufficient time to

<sup>1</sup> These witnesses were not deposed earlier due to their limited availability and also due to the unavailability of counsel for either Plaintiff or one of the Defendants on the other dates provided.

1 complete the requested examinations under the current discovery schedule. Please note that  
2 counsel for Defendants are not available on February 12 – 14 and February 21.

3

4 DATED this 7th day of February, 2019.

5

6 MINTZ LEVIN COHN FERRIS GLOVSKY  
7 AND POPEO, P.C.

8 By:   
Christopher P. Norton (*Pro Hac Vice*)

9 MINTZ LEVIN COHN FERRIS GLOVSKY  
10 AND POPEO, P.C.  
11 2029 Century Park East, Suite 3100  
12 Los Angeles, CA 90067

13 Vaughn A. Crawford, Esq.  
14 Dawn L. Davis, Esq.  
15 SNELL & WILMER L.L.P.  
16 3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169

17 *Attorneys for Defendants*  
18 *Stryker Corporation and Stryker Sales*  
19 *Corporation*

20 **IT IS ORDERED** that ECF No. 93 is  
21 GRANTED.

22 **IT IS FURTHER ORDERED** that  
Plaintiff's response to ECF No. 92 is due  
by 2/17/20.

23 **IT IS FURTHER ORDERED** that  
Defendants' reply is due by 2/20/20.

24 **IT IS FURTHER ORDERED** that a  
telephonic hearing is set on ECF No. 92  
for 2/25/20 at 10:00 a.m. Parties shall  
be connected to the hearing by dialing  
**(877) 810-9415** and entering Access  
Code **2365998** five minutes before the  
hearing begins.

25 **IT IS SO ORDERED**

26 **DATED: February 11, 2020**

  
27 **BRENDA WEKSLER**  
28 **UNITED STATES MAGISTRATE JUDGE**

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR EXPEDITED DECISION ON THE PAPERS OR EXPEDITED TELEPHONIC HEARING ON MOTIONS TO COMPEL FRCP 35 EXAMINATIONS** by the method indicated below and addressed as follows:

- BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

Corey M. Eschweiler, Esq.  
GLEN LERNER INJURY ATTORNEYS  
4795 South Durango Drive  
Las Vegas, Nevada 89147  
Telephone: (702) 877-1500  
Facsimile: (702) 933-7043  
[ceschweiler@glenlerner.com](mailto:ceschweiler@glenlerner.com)

Kevin A. Brown, Esq.  
Thomas Friedman, Esq.  
**BROWN, BONN & FRIEDMAN, LLP**  
5528 South Fort Apache Road  
Las Vegas, NV 89135  
Telephone: (702) 942-3900  
Facsimile: (702) 942-3901  
[kbrown@brownbonn.com](mailto:kbrown@brownbonn.com)  
[tfriedman@brownbonn.com](mailto:tfriedman@brownbonn.com)

Colin P. King (*Pro Hac Vice*)  
DEWSNUP KING OLSEN WOREL HAVAS  
MORTENSEN  
36 South State Street, Suite 2400  
Salt Lake City, UT 84111  
Telephone: (801) 533-0400  
[cking@dkowlaw.com](mailto:cking@dkowlaw.com)  
*Attorneys for Plaintiff*

Phillip Mark Crane, Esq. (*Pro Hac Vice*)  
Lee. J. Hurwitz, Esq. (*Pro Hac Vice*)  
SEGAL, MCCAMBRIDGE, SINGER &  
MAHONEY  
233 South Wacker Drive, Suite 5500  
Chicago, IL 60605  
Telephone: (312) 645-7800  
mcrane@smsm.com  
lhurwitz@smsm.com

Peter John Strelitz  
SEGAL MCCAMBRIDGE  
100 Congress Avenue, Suite 800  
Austin, TX 78701  
Telephone: 512-476-7834  
Facsimile: 512-476-7832  
[pstrelitz@smsm.com](mailto:pstrelitz@smsm.com)  
*Attorneys for Defendant  
I-Flow, LLC*

DATED this 7th day of February, 2019.

Diane Hashimoto  
An employee of Mintz Levin Cohn Ferris  
Glovsky and Popeo, P.C.